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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,278	01/19/2001	Charles A. Jennings	404419	9674
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EXAMINER BLAIR, DOUGLAS B				
ART UNIT 2442		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspt@polsinelli.com

**Office Action Summary****Application No.**

09/766,278

**Applicant(s)**

JENNINGS ET AL.

**Examiner**

DOUGLAS BLAIR

**Art Unit**

2442

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1-58, 60-102 and 107-134 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☒ Claim(s) 102 is/are allowed.
- 7) ☒ Claim(s) 1-17, 19, 21-58, 60-101 and 107-134 is/are rejected.
- 8) ☒ Claim(s) 18 and 20 is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF 298)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 6/2/2011 have been fully considered but they are not persuasive.

Before address the applicant's arguments, the Examiner will explain the rejection and why the rejection is proper when considering the breadth of the claims.

Claim 1 is drawn to a system for streaming media to a view for a request for the media. The system comprises a stream routing processor and a stream caster. The applicant specification describes functions performed by stream routing processors and stream casters but the specification does not provide any limiting definitions of the terms that the Examiner can give patentable weight to. Therefore the Examiner can only consider the limitations that are explicitly claimed regarding the stream routing processor and stream caster when determining the patentability of these elements.

The first element of claim 1 is a stream routing processor. The Examiner relied upon the Merchant Server in Wiser to anticipate the claimed stream routing processor.

The first limitation of the stream routing processor is to receive reservation data comprising a valid reservation identification. Claim 1 does limit the definition of a reservation identification. The Examiner relied upon col. 16, lines 44-48 of Wiser to show "reservation data comprising a valid reservation". Any purchase request is reservation data because a purchase request is data pertaining to a reservation. The purchase request comprises a "reservation identification" in the form of the media ID. The media ID identifies the media to be reserved and therefore is a "reservation identification" according to the breadth of the claims. As explained in

the previous office action, the purchase request can include both valid and invalid media ID's, as evidenced in col. 17, lines 7-9 of Wiser. The claims do not preclude the stream routing processor from receiving both valid and invalid "reservation identifications"; instead the claims only require that the stream routing processor be able to receive valid reservation identifications. As shown, Wiser clearly satisfies this requirement and thus anticipates the first limitation of the stream routing processor in claim 1.

The second limitation of the stream routing processor is to transmit the valid reservation identification. With respect to the first limitation of the stream routing processor the Examiner identified the media ID as covering a reservation identification. In col. 16, line 66-col. 17, line 3, Wiser the merchant server clearly satisfies the second limitation of the stream routing processor as the merchant server is transmitting the media ID to the content server. Col. 16, line 66-col. 17, line 3 covers both valid media ID's and invalid media ID's but again, claim 1 only require that valid media ID's are sent but do not preclude the stream router processor from transmitting both valid and invalid ID's.

The Examiner relied upon the combination of the delivery server and content manager to teach the claimed stream caster. This interpretation is appropriate because the applicant's specification does not provide a limiting definition for what a stream caster comprises so the Examiner must interpret the stream caster to cover only what is explicitly claimed. There is nothing in claim 1 that precludes the stream caster from covering multiple elements.

One of the applicant's main arguments is that "Wiser teaches away from such a combination and such a combination would render the disclosure of Wiser unsatisfactory for its intended purpose". The applicant's argument seems to ignore the Figure on the front page of the

Wiser patent. Clearly, in Figure 1B, the delivery server and the content manager are working together as part of the Music Distribution Center 124. In order to help the applicant understand how the teachings of Wiser read on the applicant's claim language, the Examiner will refer to the combination of the delivery server and the content manager as the Music Distribution Center.

In the applicant's claim 1, the first limitation of the stream caster is to receive a reservation identification for the request. The Examiner identifies col. 19, lines 4-7 as showing this feature. The voucher ID is a "reservation identification" in the broad context claimed and the voucher ID is clearly received by the delivery server part of the Music Distribution Center relied upon to anticipate the claimed stream caster.

The second limitation of the stream caster is the reception of the valid identification from the stream routing processor. As previously described, this feature is shown in col. 16, line 66-col. 17, line 3 where the merchant server is transmitting valid (and invalid) media ID's to the content manager.

The third limitation of the stream caster is a comparison of the reservation identification and the valid reservation identification to determine if the reservation identification is valid. After the content manager receives the valid media ID's from the merchant server, the content manager stores them in a transaction database as illustrated in col. 17, lines 35-54. The verification of the voucher ID, identified in col. 19, line 15 of Wiser is clearly a comparison of the voucher ID and the data about the media ID stored in the transaction database because col. 19, lines 11 and 12 discuss how the content manager maps the voucher ID to the receipt token in the transaction database. This mapping disclosed by Wiser reads on the applicant's comparison. The manner in which the comparison is made is not limited by claim 1 in any specific manner.

Finally, the forth limitation of the stream caster is streaming the media to the viewer when the reservation is valid. This feature is clearly shown in col. 19, lines 38-43 and is performed by the delivery server of the Music Distribution Center.

In response to the applicant's argument that the Examiner has not identified the switch in claim 10, the Examiner points out that the Examiner identified all of the limitations that the switch in claim 10 comprises and therefore has shown the claimed switch. The applicant must consider how the switch in the preamble of claim 10 is defined by the applicant's specification. The switch in the preamble of claim 10 is drawn to the Managed Media Switch disclosed by the applicant. **This is not a packet switch as would commonly be known in the art but is instead nothing more than a nebulous box that houses elements such as switches as illustrated in the applicant's Figure 2.** The Managed Media Switch is not defined by the applicant in any limiting manner. The Examiner has shown how Wiser teaches a switch in the context of the preamble of claim 10.

In response to the argument that Wiser does not teach a switch controller to monitor the stream caster and notify the stream routing processor of a status of the stream caster, the Examiner agrees that this argument is persuasive and the rejection is withdrawn.

With respect to the rest of the applicant's arguments, they have been addressed in the revised mappings presented in this office action.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-17, 19, 21-44, 45-58, 60-101 and 107-134 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,385,596 to Wiser et al.

As to claim 1, Wiser teaches a system for streaming media to a viewer for a request for the media, the system comprising: a stream routing processor (**merchant server 132**) executing instructions to: receive reservation data comprising a valid reservation identification (**col. 16, lines 44-48, the merchant server would receive both valid and non-valid requests from the user**); and transmit the valid reservation identification (**col. 16, line 66-col. 17, line 21**); and a stream caster (**the content manager 112 and delivery server 118 combine, in the form of the Music Distribution Center, to perform the functions of the claimed stream caster and therefore are a "stream caster" as defined by the applicant**) to: receive a reservation identification for the request (**col. 19, lines 4-7**); receive the reservation data identifying the valid reservation identification from the stream routing processor (**col. 16, line 66-col. 17, line 21**); compare the reservation to the valid reservation identification to determine if the reservation is valid (**col. 19, lines 11-32**); and stream at least partially the media to the viewer when reservation identification is valid (**col. 19, lines 38-43**).

As to claim 10, Wiser teaches a stream routing processor (**merchant server**) executing instructions to: receive signaling inquiring if the switch can stream the requested media (**col. 16, line 66-col. 17, line 5**); determine if the switch is configured to stream the requested media (**col. 17, lines 6-21**); and receive reservation data comprising a valid reservation identification when the switch is configured to stream the media (**col. 17, lines 6-21**). As to the rest of claim 10, it is rejected for the same reasons as claim 1.

As to claim 45, Wiser teaches the claimed information block (**col. 8, lines 18-41 and figure 3**) comprising a reservation identification (**Voucher ID**), an identification of streaming media (**media ID**) and at least one member of the group consisting of a presentation identification (**media ID, the claim doesn't specify that the presentation ID is different from the media ID and the term presentation ID is not defined in a limiting manner by the applicant's disclosure**), a media server identification (**col. 8, line 25**), a stream caster identification (**this element is not required by the claimed because of the "at least one" language**), a media player identification (**the MAC of the media player**) and a data packet path identification (**this element is not required by the claimed because of the "at least one" language**).

As to claim 107, Wiser teaches the action of determining if a stream caster of the switch is configured to stream a requested media (**col. 15, lines 1-9**). The rest of the limitations of claim 107 are rejected for the same reasoning as explained previously in this office action with respect to the rejections of claims 1 and 10.

As to claim 130, Wiser teaches the action of terminating an attempted session to stream request media upon determining that the reservation identification is not valid (**col. 17, lines 12-**



**16).** The rest of the limitations of claim 130 are rejected for the same reasoning as explained previously in this office action with respect to the rejections of claims 1 and 10.

As to claim 131, see col. 17, lines 12-16, the message is returned to the merchant server in response to the merchant server's request.

As to claim 132, Wisner teaches a method for streaming requested media from a switch (**Music Distribution Center**) comprising: receiving at a stream routing processor (**content manager**) signaling inquiring if the switch is configured to stream the requested media (**col. 17, lines 7-9**); determining at the stream routing processor if the switch is configured to stream the requested media, and, if so, acknowledging the inquiry (**col. 17, lines 9-12**); receiving reservation data at the stream routing processor (**col. 17, lines 7-12**), the reservation data comprising a valid reservation identification (**col. 17, lines 36-54**); receiving a reservation identification at a streaming device (**delivery server**) of the switch (**col. 19, lines 1-7**); comparing the reservation identification received at the streaming device to the valid reservation identification to determine if the reservation identification is valid (**col. 19, lines 11-14**); and streaming at least partially the requested media from the streaming device when the reservation identification is determined to be valid (**col. 19, lines 33-43**).

As to claim 133, it is rejected according to the same interpretation as in the rejection of claim 132.

As to claim 134, Wisner teaches the action of monitoring the streaming device and notifying the stream routing processor of a status of the streaming device (col. 15, lines 1-9). The rest of claim 134 is according to the same interpretation as in the rejection of claim 132.

The limitations of the dependent claims are rejected according to the cited embodiment of Wisner and corresponding disclosure related to the cited embodiment. Should the applicant have any questions about a particular limitation, the applicant is invited to telephone the Examiner at the number listed at the conclusion of this office action for clarification. It was not possible to present a more precise mapping in the time constraints required for examining an application given the time it took the Examiner to comprehend and consider the great variation in scopes of all nine independent claims.

***Allowable Subject Matter***

Claim 102 is allowed.

Claims 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Wisner does not teach the state change claimed in claims 18 and 20 by the applicant nor is the limitation anticipated nor made obvious by the other prior art of record. Wisner reads on claims 17 and 19 because these claims only broadly deal with requested media, but they do not relate the portion of media together. In other words, two separate requests in Wisner would read on the portions claimed in 17 and 19 but would not cover the state change of claims 18 and 20.

With respect to claim 102, the applicant's arguments filed on 6/2/2011 are persuasive. The prior art was not found to anticipate or make obvious the claimed switch controller in the context claimed in claim 102.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/  
Primary Examiner, Art Unit 2442